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June 11, 2020

VIA ECF & Via Torres NYSDCCHAMBERS@nysd.uscourts.gov

The Honorable Mary Kay Vyskocil
 United States District Judge
 United States District Court, Southern District of New York
 500 Pearl Street
 New York, New York 10007

USDC SDNY
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 DATE FILED: 3/12/2021

**Re: Marcos Calcano v. Hooters of America LLC,
Case No. 19-cv-09820-MKV**

Dear Judge Vyskocil:

This firm represents Defendant, Hooters of America LLC in the above-referenced matter. We write, with Plaintiff's consent, to respectfully request a stay of the proceedings in this action, pending the ruling of the Second Circuit Court of Appeals' review of rulings on nearly-identical motions to dismiss.

By way of brief background, within the last month, courts in the Southern District of New York have granted motions to dismiss other gift card cases involving substantially identical complaints. (*See Yovanny Dominguez v. Banana Republic, LLC, U.S.D.C. S.D.N.Y. Case No. 1:19-cv-10171 (GHW)* ("Banana Republic"); *James Murphy v. Kohl's Department Stores, Inc., U.S.D.C. S.D.N.Y. Case No. 1:19-09921 (GHW)* ("Kohl's"). Plaintiffs in those cases exercised their right to appeal from those rulings, and the Second Circuit has recently ordered an expedited briefing schedule in certain of those cases, indicating some intention that the Second Circuit intends to address the same issues at the core of the pending motion to dismiss. Although we understand that the plaintiffs/appellants in those cases intend to ask the Second Circuit to consolidate those appeals and withdraw the expedited briefing schedules, the Second Circuit's intent to rule on these same issues is inevitable and possibly imminent.

As a result, Defendant seeks, with Plaintiff's consent, a comprehensive stay of the proceedings in this action pending the Second Circuit's rulings on the appeals. A stay would conserve judicial resources and permit this Court to proceed at a future date with the benefit of guidance from the Court of Appeals.

Thank you for Your Honor's consideration of this request.

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The Honorable Mary Kay Vyskocil
June 11, 2020

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Respectfully submitted,

JACKSON LEWIS P.C.

By: /s/ Joseph J. Lynett
Joseph J. Lynett

GRANTED. This action is stayed pending the resolution of the appeals in similar cases, consolidated under the Case Number 20-1552, at the Second Circuit. The pending motion to dismiss [ECF No. 20] is administratively terminated without prejudice to refiling the motion after termination of the stay. The Clerk of Court respectfully is requested to terminate the motion and stay this action on ECF.
SO ORDERED.

Date: 3/12/2021
New York, New York

Mary Kay Vyskocil
Mary Kay Vyskocil
United States District Judge